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Thomas W. McNamara
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12 UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA
13

14 THOMAS W. MCNAMARA, as the Court-
Appointed Monitor for AMG Capital
15 Management, LLC; BA Services LLC; Black
Creek Capital Corporation; Broadmoor Capital
16 Partners, LLC; Park 269, LLC; C5 Capital
LLC; DF Services Corp.; DFTW Consolidated
17 [UC] LLC; Impact BP LLC; Level 5 Apparel
LLC; Level 5 Capital Partners LLC; Level 5
18 Eyewear LLC; Level 5 Motorsports, LLC;
Level 5 Scientific LLC; NM Service Corp.
19 (f/k/a/ National Money Service); PSB Services
LLC; Real Estate Capital LLC (f/k/a/ Rehab
20 Capital I, LLC); Sentient Technologies; ST
Capital LLC; Westfund LLC; Eclipse
21 Renewables Holdings LLC; Scott Tucker
Declaration of Trust, dated February 20, 2015;
22 West Race Cars, LLC; and Level 5
Management LLC; and their successors,
23 assigns, affiliates, and subsidiaries,

24 Plaintiff,

25 v.

26 CHARLES M. HALLINAN, an individual;
HALLINAN CAPITAL CORP., a Delaware
corporation; DOES I-X; and ROE
27 CORPORATIONS I-X,

28 Defendants.

Case No. 2:17-cv-02966-KJD-NJK

**STIPULATION AND ORDER TO
AMEND THE DISCOVERY PLAN AND
SCHEDULING ORDER
(First Request)**

1 This is the first stipulation for an extension to the dates and deadlines set forth in the
2 discovery plan and scheduling order (ECF No. 32).¹ The earliest deadline set forth in the
3 current Scheduling Order is the discovery cutoff date of September 28, 2018. *Id.* at ¶¶ 4(a), 5.
4 Accordingly, this stipulation is timely in the sense it is brought well before the 21-day rule set
5 forth in LR 26-4. Counsel for Plaintiff has requested an extension of the current discovery
6 scheduling order. The parties have met and conferred to discuss Plaintiff's request, and
7 pursuant to those discussions, the Defendants do not oppose the following.

8 Pursuant to Fed. R. Civ. P. 16(b)(4), LR IA 6-1, LR IA 6-2, and LR 26-4, Plaintiff
9 Thomas W. McNamara, in his capacity as the Court-appointed Monitor in *Federal Trade*
10 *Commission v. AMG Services, Inc., et al.*, District of Nevada, Case No. 2:12-cv-00536-GMN-
11 VCF, and Defendants Charles M. Hallinan and Hallinan Capital Corp., stipulate and agree,
12 subject to the Court's approval, to extend certain dates included in the Court's Scheduling
13 Order regarding this case's discovery plan. Good cause exists to approve this stipulation, as
14 explained below:

15 A. Completed Discovery

16 The following discovery has occurred:

17 Plaintiff has served Defendants with the following items:

- 18 1. Initial Disclosures Pursuant to Fed. R. Civ. P. 26(a)(1);
- 19 2. First Set of Interrogatories;
- 20 3. First Set of Requests for Production of Documents; and
- 21 4. Rule 30(b)(6) deposition notice on Defendant Hallinan Capital Corp.

22 Plaintiff intends to serve his First Set of Requests for Admission in the near future.
23 Plaintiff also intends to take the depositions of three incarcerated individuals as soon as
24 practicable: Scott Tucker, Timothy Muir, and Defendant Charles Hallinan.²

25 ¹ The term "LR" means and refers to the Local Rules of Civil Practice for the United States
26 District Court for the District of Nevada. All references to "ECF No. ____" are to the numbers
27 assigned to the documents as they appear on the particular case docket maintained by the clerk of
the court.

28 ² On July 27, 2018, this Court denied without prejudice Plaintiff's Motion for Leave to Depose
Incarcerated Individuals Scott Tucker, Timothy Muir, and Charles Hallinan. *See* ECF No. 36.
Plaintiff intends to correct the deficiencies identified by the Court and refile the motion.

1 Defendants have served Plaintiff with the following items:

- 2 1. Initial Disclosures Pursuant to Fed. R. Civ. P. 26(a)(1);
- 3 2. Responses to Plaintiff's First Set of Interrogatories; and
- 4 3. Responses to Plaintiff's First Set of Requests for Production.

5 Defendants intend to serve requests for the production of documents and interrogatories
6 in the near future. The parties are currently in the process of scheduling Plaintiff's depositions
7 of Scott Tucker, Timothy Muir and Charles Hallinan.

8 On May 7 and 10, 2018, Plaintiff served written discovery on Defendants (both
9 Requests for Production of Documents and Interrogatories). After receiving Defendants'
10 responses on June 15 and 22, 2018, Plaintiff drafted a letter dated July 16, 2018 identifying
11 what he perceived as deficiencies in Defendants' responses and sought to meet and confer
12 during that week. Defendants' counsel requested additional time to respond to the issues raised,
13 and ultimately, the parties held a meet-and-confer telephone conference on July 27, 2018. The
14 parties discussed the limited amount of documents Defendants have in their possession, custody
15 and control and whether any of Plaintiff's discovery requests could be narrowed to
16 accommodate both parties' needs and interests. The conversation was productive, and the
17 parties agreed to narrow certain requests. The parties continue to negotiate in good faith in an
18 attempt to resolve all issues relating to the discovery requests, but unfortunately, there may be
19 some areas of disagreement that could ultimately require court resolution.

20 B. Incomplete Discovery

21 The parties have begun written discovery; however, the process has taken longer than
22 expected. Defendants have conducted a meaningful search for responsive documents in their
23 possession, custody and control in response to Plaintiff's first set of document requests; they
24 intend to produce what responsive documents they have in the near future. Defendants intend
25 to serve requests for production of documents and interrogatories soon. Thus, both sides are
26 continuing to search for and produce documents. Additionally, the parties are in the process of
27 scheduling the depositions of Mr. Tucker, Mr. Muir and Mr. Hallinan. Third, the parties expect
28 that expert testimony will assist the trier-of-fact in rendering a judgment or verdict. Both

1 parties intend to engage in expert discovery after fact discovery has been completed.

2 C. Reasons to Extend Discovery Deadlines

3 Plaintiff desires additional time to produce and review documents and depose witnesses.
4 Part of that effort will involve coordinating the depositions of inmates with the facilities in
5 which they are held, all of which are in different states. Once fact discovery has been
6 completed, each party's expert(s) will need time to review the documents and testimony.

7 As noted above, Plaintiff expects that discovery in this case may involve some limited
8 motion practice. Specifically, while the parties plan to continue to meet and confer regarding
9 most of their differences, and hope to resolve these issues, Plaintiff has identified some issues
10 that may need to be resolved by the Court, and Plaintiff anticipates it may be necessary to file a
11 motion to compel production of certain limited categories of documents and interrogatory
12 responses. The need for the Court to resolve these issues is one of the reasons for this request,
13 as Plaintiff would like to receive document productions and interrogatory responses prior to
14 taking certain depositions.

15 Discovery has been, and will continue to be, complicated by Defendant Hallinan's
16 incarceration. Defendant Hallinan, in addition to litigating this case, is appealing his criminal
17 conviction and has just recently reported to prison. Furthermore, counsel for Defendant
18 Hallinan has informed Plaintiff that the person most knowledgeable for the Rule 30(b)(6)
19 deposition of Defendant Hallinan Capital Corp. is Defendant Hallinan himself, further
20 complicating the situation. Plaintiff believes that it will take time to work through the logistics
21 of these discovery issues, including scheduling and conducting depositions of the Defendants.

22 D. Proposed Schedule for Completing All Remaining Discovery

23 Plaintiff seeks to amend the Scheduling Order to extend each deadline as follows:

	Current Date	Proposed New Date
24 1. Fact discovery cut-off	September 28, 2018	November 28, 2018
25 2. Expert discovery cut-off	December 20, 2018	February 20, 2019
26 3. Interim status report	October 22, 2018	December 21, 2018
27 4. Expert disclosures	October 22, 2018	December 21, 2018
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	Current Date	Proposed New Date
5. Rebuttal expert designations	November 21, 2018	January 21, 2019
6. Dispositive motions	February 18, 2019	April 18, 2019
7. Pretrial order*	March 20, 2019	May 20, 2019

* In the event dispositive motions are filed, the date for filing the joint pretrial order shall be suspended until 30 days after a decision of the dispositive motions.

III. CONCLUSION

For the above-stated reasons, Plaintiff respectfully requests, and Defendants do not oppose, that this Court enter an Order granting this Stipulation to Amend the Discovery Plan and Scheduling Order using the new deadlines noted above.

Dated: August 6, 2018

/s/ Logan D. Smith
Logan D. Smith
*Attorneys for the Court-Appointed Monitor,
Thomas W. McNamara*

/s/ Jarrod L. Rickard
Jarrod L. Rickard
*Attorneys for the Defendants Charles M.
Hallinan and Hallinan Capital Corp.*

IT IS SO ORDERED:



UNITED STATES MAGISTRATE JUDGE

DATED: August 7, 2018
